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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	GC Docket No. 92-52
)	
Reexamination of the Policy)	RM-7739
Statement on Comparative)	RM-7740
Broadcast Hearings)	RM-7741

COMMENTS OF GILES TELEVISION, INC.

Giles Television, Inc. ("GTI"), by its attorneys, hereby submits these comments in the above-captioned matter. GTI is presently an applicant for a new VHF television station in Columbia, LA. The comparative case which has already spanned six years, has proceeded through the Commission's and the Court of Appeals' pipeline to the very eve of oral argument, only to be remanded to the Commission for further action consistent with the Bechtel decision. It is clearly in the best interests of GTI and all other applicants who have been through the ordeal of a full comparative hearing to have whatever criteria the Commission adopts be quickly and readily justiciable without the need for further hearings and further rounds of appeal. Delay is the vice most to be avoided in this context. GTI does have two concrete suggestions for dealing with the problem of comparative cases which have been submitted and tried under the old criteria.

First, the Commission should abandon the comparative fictions which have applied to many of these applicants. Under the

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Commission's prior comparative criteria, the Commission sought to avoid oneupsmanship and upgrading by freezing applicants' comparative postures as of a certain cut-off date. This policy, while useful in permitting the comparative evaluation of applicants in a non-fluid atmosphere, has also had the effect of perpetuating illusory ownership structures and comparative profiles. When an applicant sells a media interest, for example, it continues to be evaluated as though it still holds that interest. Similarly, in many cases the passage of time has caused applicants to lose shareholders through attrition, death or simply loss of interest. Yet the applicant continues to be treated as though the original owners were still involved.

Particularly in the case of applications which have been pending for as long as eight or ten years, it is unrealistic and untenable to pretend that applicants retain ownership structures or media interests which have long since been changed (but have not been recognized for comparative purposes). It is especially appropriate to clear away the cobwebs of old fictions in the context of the application of new comparative criteria. The fear of "upgrading" which was the impetus for the freeze policy initially no longer applies in the new ball game initiated by the Bechtel decision. Further, applicants that have experienced changes in ownership structures or media interests in the pre-Bechtel era obviously did not undertake such actions with any thought of garnering any comparative advantage, as that was precluded.

It has always been troublesome to decide the outcome of comparative cases on the basis of facts and circumstances which both the Commission and the parties know are not true. The present proceeding gives the Commission and the applicants an opportunity to conform whatever criteria and procedures are ultimately adopted to the actual realities of their applications as they now exist. GTI emphasizes that it is not advocating that applicants be permitted or encouraged to amend their applications freely to adapt to the new criteria that are adopted. Rather, applicants should be judged and evaluated for what they really are at the present time.

Second, GTI believes that settlement of the long pending cases could be encouraged by permitting, on a one time basis, third party buy-outs. These buy-outs, commonly known as "white knight" buy-outs, have not been permitted by the Commission under the Marco Island decision of several years ago. However, in many instances, the sheer cost of battling a comparative case over many years has exhausted the financial ability of the mutually exclusive applicants to both buy out the other applicants and capitalize the construction of their stations. On the other hand, interest is frequently expressed by existing broadcasters or others in acquiring a permit which has been long tied up in comparative proceedings. In some cases, the interest of such a third party participant is essential to the settlement of the proceeding. Because of the unique situation presented by applications which have long been pending and which have already run the hearing


gauntlet, it is appropriate to make an exception to the usual rule so as to significantly increase the prospects of settlement.

GTI looks forward with interest to the adoption of new comparative criteria which will permit the prompt, fair and realistic resolution of pending cases.

Respectfully submitted,

Giles Television, Inc.

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